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REMARKS

Claims 44-53 and 57-60 stand rejected under 35 USC 103(a) as being unpatentable over Asay et al in view of Fox et al and, for some of the claims, further in view of Golden et al. These rejections are respectfully traversed.

Independent claims 44 and 57

It is respectfully submitted that independent claims 44 and 57 distinguish the invention from the cited Asay/Fox combination.

The Claimed Invention

In the disclosed embodiment, a guarantor of payments issues a short-term certificate to a customer/client. The customer/client can then use such a certificate as a form of payment. A merchant or other supplier can accept the certificate as payment without seeking or receiving any assurances from the guarantor. Thereafter, the guarantor makes ultimate payment to the supplier for the purchase upon receiving from the supplier a) the certificate and b) an electronic record of the transaction.

Thus a feature of the invention is the fact that the short-term certificate is used as a form of payment accepted by a merchant or other supplier. Another feature of the invention is the fact that the guarantor is also the party who makes good on the accepted certificate by making ultimate payment to the merchant or other supplier.

These aspects of applicant's invention are called for in each of applicant's independent claims 44 and 57.

Claim 44, in particular, recites a method performed by the certificate-issuing guarantor. Actions that the guarantor carries out in its role as the paying party include: a) sending to the user a short-term certificate so that the user is enabled to enter into the transaction using the short-term certificate as a form of payment (lines 9-12); b) receiving an electronic record of the transaction from the supplier (lines 14-15); and c) making payment to the supplier for the purchase (lines 16-17).

Claim 57 recites a method performed by the supplier (e.g., merchant). Payment-related actions that the supplier carries out relate to obtaining payment from the certificate-issuing guarantor, these being: a) acceptance of the short-term certificate as

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payment for the purchase (line 7); b) sending an electronic record of the transaction to a billing system for payment from the certificate-issuing guarantor (lines 10-11); and c) receiving the payment from the guarantor (line12).

The manner in which these, and possibly other, limitations in applicant's claims distinguish the invention from the cited art is discussed hereinbelow.

Asay and Fox

Applicants will accept for purposes of argument that it would be obvious to include within the overall transaction system of Asay the step of making payment to the supplier. This a step that does not seem to be mentioned in Asay but does seem to be taught in Fox.

The reason that Asay does not disclose the step of making payment to the supplier (Asay's relying party 108) is that Asay's certificate-issuing guaranteeing parties—the certification authority 102, reliance server 104 and other parties, such as insurance underwriters 124a—are not involved in the buy/sell/pay parts of the transaction. The certificate-issuing guaranteeing parties in Asay are not in the business of making payments for transactions. They serve only to vouch for the subscriber 106—that is, to guarantee, for example, the identity of the subscriber 106 and possibly the subscriber's creditworthiness and possibly to be a guarantor to the supplier in the case that the subscriber doesn't pay the supplier for the goods or services received.

Rather, the kind of transaction that Asay envisions as taking place between the subscriber and the relying party is the kind of transaction where payment would be expected directly from the subscriber—the party who is receiving the goods or services—not from the certificate-issuing guarantor. In this regard the examiner's attention is directed to col. 16, lines 21-25 of Asay, wherein it is indicated that the type of transaction contemplated by Asay is a "contract, letter, purchase order or the like"—that is a typically business-type of transaction. Absent any teaching in Asay that the guaranteeing parties are the parties that are expected to ultimately make the payment for the transaction, it must be assumed that Asay envisions that payment will be made in the normal course of business by the subscriber who issued the "contract, letter, purchase order or the like" to the supplier (relying party). As the examiner is of course, aware, payment under a contract, purchase order or the like is typically made by the contracting/purchasing party who receives the goods or services.

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The teachings of Fox do not change the above analysis. Fox is cited by the examiner (Office action, p. 4, lines 2-6) as standing for the proposition that it would be obvious to modify the method in Asay and include a step of making a payment to the supplier for the purchase as taught by Fox, as this would have been a typical step carried out in any transaction. Applicant does not dispute the point that it would be expected in Asay that the supplier will ultimately be paid. But, again, it is not Asay's certificate-issuing guaranteeing parties who are the parties making payment purchased but the subscriber directly, as would normally be the case for a "contract, letter, purchase order or the like."

It does seem to be the case that Fox discloses an arrangement in which the merchant gets paid from a party other than the purchaser. For example, Fox discloses at col. 26, lines 13-22 that the merchant gets paid through the usual credit card system. However, the "guarantor" in Fox is not part of the payment (i.e., credit card) system. Rather, the guarantor—Fox's "certified trusted authority"—serves only to validate the identity of the transacting parties to one another through Fox's "registration process." Indeed, with respect to the actual purchase transaction, Fox notes that "unlike the registration process...the transaction process involves communication only among the participants to the transaction." (Fox col. 11, lines 42-45.)

Even if this aspect of Fox were included in Asay, this would only mean that the relying party in Asay would receive payment from a credit card system rather than from Asay's subscriber directly. Such payment would not be being made by Asay's certificate-issuing guaranteeing parties.

It is thus seen that there is no teaching in Fox that, when combined with Asay, would result in a system wherein the certificate-issuing guaranteeing part(ies) ultimately pay the merchant or other supplier.

Distinguishing Claim Limitations

In view of the foregoing, it can be seen that the cited Asay/Fox combination does not meet all the limitations either claim 44 or of claim 57.

Claim 44

With respect to claim 44, first of all, it is seen from the foregoing discussion that the certificate(s) sent by the guaranteeing parties in the cited Asay/Fox combination do

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not enable the subscriber to enter into a transaction using the short-term certificate as a form of payment, contrary to the recitations at claim 44, lines 9-12. Rather the subscriber in the Asay/Fox combination will ultimately have to “settle up” with the relying party (supplier) in the normal course of business. The certificate serves only to guarantee the transaction.

Moreover, none of the guaranteeing parties in the Asay/Fox combination receives an electronic record of the transaction—Asay’s contract, letter, purchase order or the like—contrary to the recitations in claim 44 at lines 14-15.

Moreover, the guaranteeing parties in the Asay/Fox combination do not make the payment, contrary to the recitation at claim 44, lines 16-17.

It is thus seen that there are at least three significant aspects of applicant’s invention as defined in claim 44 that do not read on the cited Asay/Fox combination, any one of which thus serves to render claim 44 allowable.

Claim 57

With respect to independent claim 57, it is seen from the foregoing discussion that the supplier (relying party) in the Asay/Fox combination does not accept the short-term certificate as payment for the purchase, contrary to claim 57, line 7.

Moreover, the supplier in Asay/Fox does not send the electronic record of the transaction to the guarantor, contrary to claim 57, lines 10-11.

Moreover the supplier in the Asay/Fox combination does receive payment from the guarantor, contrary to claim 57, line 12.

Thus, as is the case with claim 44, that there are at least three significant aspects of applicant’s invention as defined in claim 57 that do not read on the cited Asay/Fox combination, any one of which thus serves to render claim 57 allowable.

Dependent claims 45-47, 49 and 60

Dependent claims 45-47, 49 and 60 were rejected view of the Asay/Fox combination.

In view of the foregoing, showing that independent claims 44 and 57, distinguish the invention from the cited Asay/Fox combination, each other claim in the application,

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which depends either directly or indirectly from one of claims 44 and 57 also necessarily distinguishes the invention from the Asay/Fox combination.

However, recitations in at least ones of the dependent claims even further distinguish the invention from Asay and/or the Asay/Fox combination.

With respect to claims 45-46, the Office action asserts that Fox teaches billing the user through a regular billing channel between the guarantor and the user, citing col. 26, lines 13-22 of Fox. Again, however, it is noted that any parties involved in any billing for the transaction in Asay/Fox would not be the certificate-issuing guaranteeing parties. That is, the supplier under the "contract, letter, purchase order or the like" (Asay's relying party) would bill the purchaser (Asay's subscriber) or perhaps some other party not involved the certificate issuance process, such as the credit-card system. Thus contrary to the claim language, there is no "regular billing channel" for purchases between the Asay's subscriber and Asay's guaranteeing parties, let alone such a billing channel being "a telephone bill."

With respect to claim 47, whether or not any short-term certificate in Asay includes an assertion of an entitlement, it certainly does not include any assertion of "the ability to use said short-term certificate to pay for purchases" as claim 47 recites. As previously noted, the certificates in Asay are not used as payments, but only guarantees that the contracting party (e.g., a subscriber issuing a purchase order) will make payment.

With respect to claim 49, the Office action cites the reference to a letter of credit in Asay as teaching claim 49's recitation that the certificate indicates that the user can use a form of payment other than money. However, a letter of credit is not a form of payment. Asay itself characterizes the letter of credit as being a type of "guarantee or assurance of payment" (col. 20, line 67). That is, a letter of credit guarantees that the party who owes the payment is "good for" it, but the letter of credit is not an actual payment. Indeed, according to the definition at http://www.investorwords.com/2774/letter_of_credit.html, a letter of credit is "a document issued by a bank which guarantees the payment of a customer's drafts for a specified period and up to a specified amount." Guaranteeing payment of "a customer's drafts" means that the customer (Asay's subscriber) is actually the paying party. The "customer's drafts"—that is, a customer's written check or the like—is the form of payment. The letter of credit merely states that the check will be "good" when presented to the bank by the party who accepts the check as payment.

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Dependent claims 48, 50-53 and 58-59

Dependent claims 48, 50-53 and 58-59 were rejected in view of Asay/Fox/Golden.

In view of the foregoing, showing that independent claims 44 and 57 distinguish the invention from the cited Asay/Fox combination, each other claim in the application, which depends either directly or indirectly from one of claims 44 and 57 also necessarily distinguishes the invention from Asay or Asay/Fox.

However, recitations in claims 48, 50-53 and 58-59 even further distinguish the invention from the cited combination.

Certainly the prior art, such as Golden, teaches the idea of certificates that entitle purchasers to discounts, use of loyalty points for purchases and marketing offers, as various of these claims recite. However, since the certificates in the Asay/Fox system are not used as payments, and since there is no teaching that the Asay guarantors have marketing or other relationships with merchants who would be giving discounts or the like, there is no teaching or motivation for Asay's guaranteeing parties—who are not in the transaction business but simply in the guaranteeing business—to include such things in the Asay certificates.

In view of the foregoing, it is believed that each of the claims in the application is in condition for allowance and reconsideration is requested.

Respectfully submitted,

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